IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1835 OF 2005

Gurukiratsingh Mahabirsingh Butalia... Applicant

versus

The State of Maharashtra ... Respondent

...

Mr.A.P. Mundargi, for Mr. S.R. Mishra, for the Applicant.

Mr.V.B. Konde Deshmukh, A.P.P., for the Respondent State.

Mr. S.J. Railkar, for the original complainant.

...

CORAM : A.M.KHANWILKAR,J.

13th April 2005

P.C.:

. Heard Counsel for the parties. It is not in dispute that the first informant had filed private complaint in respect of the same offence against the Applicant. Direction under section 156(3) of the Code was passed by the Magistrate,

consequent to which the matter was investigated by the concerned police station and report dated 29th November 1999 came to be submitted before the Magistrate indicating that no offence is made out. It is not in dispute that the first informant applied to the concerned Magistrate to give him opportunity to adduce evidence, so that further orders can be passed. However, that has not been done till today, inspite of the fact that the report has been submitted before the concerned Magistrate. In other words, the private complaint filed by the first informant has not been taken to its logical end so far, which was instituted as back as in 1998. Without disclosing all these details, first information report has been registered in the same police station at the instance of the first informant, who is complainant in the private complaint. Obviously, the present proceedings are abuse of process of Court. Once the Magistrate was in seisin of the issue, instead of pursuing the private complaint to its logical end, the first informant could not have registered first information report in respect of the same offence, that too without disclosing the earlier

developments. Accordingly, this is a fit case for grant of anticipatory bail on the following terms.

(A) Applicant is granted anticipatory bail in connection with CR.No.18/2005 registered with Nigadi Police Station, District Pune, on executing personal bond in the sum of Rs.10,000/- (Rupees Ten thousand only) with one surety in the like amount.

(B) The Applicant shall abide by the conditions specified under section 438(2) of the Cr.P.C., as applicable to the State of Maharashtra.

. Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)